S.B.CIVIL WRIT PETITION NO. 5866/2004

Daya Shankar & Ors. Vs. The Judge, Labour Court & Ors.

DATE OF ORDER :: 16th May, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. K.S. Yadav, for the petitioners.
Mr. N.K. Joshi, for the respondents.

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By this petition for writ a challenge is given to the award dated 21.3.2001 passed by the labour court, Sriganganagar in Industrial Disputes Case No.89/98. The appropriate government by its notification dated 20.7.1995 referred industrial dispute for its adjudication to labour court, Bikaner in following terms:

> "क्या श्रमिक श्री अनिल कुमार एवं अन्य 13 श्रमिकगण { जिला कि प्रतिनिधित्व महामंत्री श्री गंगानगर जिला बिजली कर्मचारी यूनियन(इंटक) श्री गंगानगर द्वारा किया गया है } को सहायक अभियन्ता, आर.एस.ई.बी. (तिवरण) अनूपगढ़, एवं सहायक अभियन्ता, डी.सी.सी. आर.सी.ई.बी. सूरतगढ़ द्वारा माह मार्च 92 से सेवामुक्त किया जाना उचित एवं वैध है ? यदि नहीं तो श्रमिक किस राहत को पाने के अधिकारी है?"

The dispute for its adjudication was transferred to labour court, Sriganganagar on its establishment. By the award impugned the labour court held that the workmen-petitioners were not in continuous employment of the employer as defined under Section 25B of the Act of 1947.

While assailing validity, propriety and correctness of the award impugned it is contended by learned counsel for the petitioner that the labour court erred while holding as above by ignoring the fact that their services were utilised by the employer by changing their names and also the labour court failed to appreciate that relevant muster rolls were not produced by the employer before the labour court.

I do not find any substance in the contention so raised. A specific finding is given by the labour court that there was nothing available on record on basis of that a presumption could be drawn that the services of the workmen-petitioners were utilized by changing their names. The labour court also held that the names of the workmen were not available in the muster rolls pertaining to the period prior to 21.10.1991, therefore, the non-production of muster rolls pertaining to the period commencing from 21.10.1991 to 31.3.1992 shall be having no effect for computation of their continue service.

The finding given by the labour court is based on sound appreciation of evidence and it does not warrant any interference of this Court under Article 226 and 227 of the Constitution of India. Accordingly, the writ petition is dismissed.

(GOVIND MATHUR),J.

jgoyal